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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

THOMPSON, MARC D

ART UNIT	PAPER NUMBER
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2144

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DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

***Request for Information 37 C.F.R. §1.105***

1. Two facts have been ascertained at this point in prosecution:

Applicant submitted a Petition to make this application special, Paper #6, received 6/15/2001, which included an assertion that the invention as claimed was being actively infringed. Based on this assertion and the facts present in the Petition, this Petition was subsequently granted. See, Paper #7.

Applicant reported in response to the directly previous 37 C.F.R. §1.105 information request (Paper #19, mailed 9/24/2003), within the submitted response by Applicant (Paper #21, received 1/29/2004), that any/all previously directly associated trade names and/or user manual(s) for goods, products, and/or services as presently claimed (for example, name(s) and instructions for use of enabling software programs effecting the claimed invention), as well as any white papers, sales brochures, and/or advertising/promotional literature directly associated with the instant claimed invention, are unknown and/or are not readily available to the Applicant for submission to the Office and review by the Examiner.

2. Thus, Applicant asserts that an alleging product or service is/was being actively utilized by another, and yet, the Applicant has no trade named product, no users manuals or white paper descriptions, nor any software/hardware descriptions of any kind which describe the invention being infringed. In other words, Applicant concedes that claimed invention is/was being infringed by another, and the invention as now set forth in the claims (as amended) has no available trade name(s) used to designate, describe, or market the product, nor any documentation (white papers, manuals, etc.) describing the goods, products, or services as presently specifically claimed.

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3. This information request serves to clarify these seemingly conflicting conditions. It is presumed that the previous Information Request (Paper #19) was misinterpreted by Applicant to construe the requirement of documentation which was not directly derived by the instant Assignee or any/all member(s) of the inventive entity. Indeed, several sections of the response to said information request are not entirely understood by the Examiner based upon the intention of said request. Thus, a more clarified dictation of the information requirement directly follows. This request is made in order to assist in determining whether certain references constitute prior art against specific claims in the instant application.

4. Applicant and the Assignee of this application are required under 37 CFR §1.105 to provide the following information that the Examiner has determined is reasonably necessary for proper examination of this application. The information is required to identify goods, products, and/or services encompassing the claimed subject matter in any/all of the instant pending claims which is/was owned, operated, or licensed by the current Assignee or any one member of the inventive entity, and identify and compare the properties of similar goods, products, and/or services found in the prior art.

5. In response to this requirement, please provide the trade names (if any exist) or other designations of any goods, products, or services that are/were owned, operated, or licensed by the current Assignee or any member of the inventive entity which is encompassed by any one of the currently pending claims in the instant application.

6. In response to this requirement, please provide the earliest available user manuals for any goods, products, or services that are/were owned, operated, or licensed by the current Assignee

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or any member of the inventive entity which is encompassed by any one of the currently pending claims in the instant application.

7. In response to this requirement, please provide the dates initially published and copies of the earliest available associated descriptive documentation, i.e., white papers, sales brochures, and advertising/promotional literature, prepared for any goods, products, or services that are/were owned, operated, or licensed by the current Assignee or any member of the inventive entity which is encompassed by any one of the currently pending claims in the instant application.

8. For those claims expressed as means or steps plus function (claims 15-18), please provide the specific page and line numbers within the disclosure which describes the claimed structure and acts set forth in these claims.

9. Please see MPEP §704.11(a) and 37 C.F.R. §§1.105(a)(i)-(vii) for further explanation of this requirement, if necessary, in order to constitute a proper reply for response to this request(s). It is noted MPEP §704.12 specifically recites what constitutes proper and improper replies to this requirement.

10. The fee and certification requirements of 37 C.F.R. §1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 C.F.R. §1.105 that are included in the Applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 C.F.R. §1.105 are subject to the fee and certification requirements of 37 C.F.R. §1.97.

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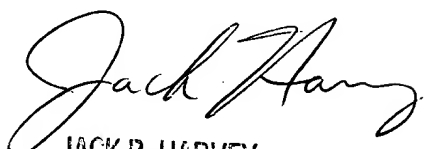
11. Applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR §1.56. Where the Applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete response to the requirement for that item.

12. This requirement is subject to the provisions of 37 C.F.R. §§1.134, 1.135 and 1.136 and has a shortened statutory period of two (2) months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR §1.136(a).

13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Marc Thompson whose telephone number is (703) 308-6750. The Examiner can normally be reached on Monday-Friday from 9am to 4pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Jack Harvey, can be reached at (703) 305-9705. The fax phone number for this Group is (703) 872-9306. Inquiries of a general nature relating to the general status of this application or proceeding should be directed to the 2100 Group receptionist whose telephone number is (703) 305-3900.

Marc D. Thompson  
Primary Examiner  
Art Unit 2144

MARC D. THOMPSON  
MARC THOMPSON  
PRIMARY EXAMINER

  
JACK B. HARVEY  
SUPERVISORY PATENT EXAMINER